

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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:
UNITED STATES OF AMERICA, :
:
v. : CR-04-966 (FB)
:
RUSSELL ALLEN, : June 3, 2008
:
Defendant. : Brooklyn, New York
:
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TRANSCRIPT OF CRIMINAL CAUSE FOR PLEADING
BEFORE THE HONORABLE VIKTOR V. POHORELSKY
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Government: ROSLYNN R. MAUSKOPF, ESQ.
UNITED STATES ATTORNEY
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Proceedings recorded by electronic sound recording,
transcript produced by transcription service

1 THE CLERK: Criminal cause for a guilty plea in
2 CR-04-966, the United States of America against Russell
3 Allen. Counsel, please state your appearances for the
4 record.

5 MS. POKORNY: Good afternoon, your Honor. Carolyn
6 Pokorny and Brendan King for the government.

7 MR. DONALDSON: For Mr. Allen, Xavier R.
8 Donaldson. Good afternoon.

9 THE COURT: Good afternoon. Please be seated.
10 Mr. Allen, I'm told that you're prepared to plead guilty to
11 a criminal offense. The decision to do that is a serious
12 decision.

13 Before the Court can accept your guilty plea, the
14 Court has to be satisfied that you understand the rights
15 that you are waiving by pleading guilty and the consequences
16 that may occur once you plead guilty.

17 I'll discuss those matters with you today. I'll
18 be asking you some questions as well. The answers to the
19 questions must be given under oath so my courtroom deputy
20 now will administer an oath for you to take.

21 (Defendant is sworn)

22 THE CLERK: Please state your name for the record.

23 THE DEFENDANT: Russell Allen.

24 THE CLERK: Thank you.

25 THE COURT: Alright, Mr. Allen, you may be seated.

1 You've taken an oath to tell the truth. That means you are
2 required to do so. If you should lie or intentionally
3 mislead the Court today, you would be subject to prosecution
4 for the crime of perjury or making false statements.

5 Do you understand that?

6 THE DEFENDANT: Yes.

7 THE COURT: If there's anything you do not
8 understand today, please don't hesitate to tell me. I'll be
9 happy to clarify or provide further explanations about any
10 matter that's not entirely clear to you.

11 Do you understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: How old are you?

14 THE DEFENDANT: Thirty.

15 THE COURT: How far did you go in school?

16 THE DEFENDANT: GED.

17 THE COURT: Have you had any difficulty
18 communicating with your attorney and understanding what he's
19 explained to you about the charges here, about your rights
20 or about anything else related to this matter?

21 THE DEFENDANT: No, I have not.

22 THE COURT: Are you now or have you recently been
23 under the care of a doctor or a psychiatrist for any reason?

24 THE DEFENDANT: No, not at the moment.

25 THE COURT: In the last 24 hours have you taken

1 any pills or drugs or medications of any kind or did you
2 have any alcoholic beverage to drink?

3 THE DEFENDANT: No, I have not.

4 THE COURT: Have you ever been hospitalized or
5 treated for any drug related problem like narcotics
6 addiction or something else like that?

7 THE DEFENDANT: No, I have not.

8 THE COURT: Is your mind clear now as you sit
9 here?

10 THE DEFENDANT: Yes, it is.

11 THE COURT: Mr. Donaldson, I presume you've
12 discussed the question of entering a guilty plea with Mr.
13 Allen.

14 MR. DONALDSON: Thoroughly.

15 THE COURT: In your view, does he understand the
16 rights that he'll be waiving by pleading guilty?

17 MR. DONALDSON: Yes, he does.

18 THE COURT: Do you have any question about his
19 competency to proceed today?

20 MR. DONALDSON: No, I do not.

21 THE COURT: Were you appointed or were you
22 retained, Mr. Donaldson?

23 MR. DONALDSON: Retained.

24 THE COURT: Mr. Allen, are you satisfied with the
25 assistance that Mr. Donaldson has given you thus far in this

1 case?

2 THE DEFENDANT: Yes, I am.

3 THE COURT: Do you feel that you need any more
4 time to discuss with him the decision to plead guilty before
5 we proceed today?

6 THE DEFENDANT: No, I do not.

7 THE COURT: I understand you're prepared to plead
8 guilty to a charge that's found in a superseding information
9 that's been prepared by the United States Attorney.

10 Let me ask you first, did you receive a copy of
11 the superseding information at some point?

12 THE DEFENDANT: Yes, I did.

13 THE COURT: Have you discussed the charge in this
14 information with your attorney?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you understand the charge?

17 THE DEFENDANT: Yes.

18 THE COURT: Alright. I'm going to go over the
19 charge in a little detail with you. The superseding
20 information charges you with racketeering.

21 To be more specific, racketeering in connection
22 with an enterprise that has been denominated in the
23 information as the McGriff Enterprise (ph).

24 If the government were to have to prove this case
25 at a trial, it would have to prove several facts or a

1 variety of facts, actually.

2 First of all, they'd have to prove that an
3 enterprise similar to the one -- or an enterprise that is
4 like the one charged in the indictment actually existed. An
5 enterprise for purposes of this statute is a group of
6 people, group of individuals, who work together to
7 accomplish objectives of the enterprise through the conduct
8 of certain kinds of criminal activities.

9 In this indictment it's charged that the objective
10 of the enterprise here was to make money. And so the
11 government would have to prove there was such an enterprise.
12 A group of individuals who got together to make money.

13 And it's also charged that they went about making
14 money was through the commission of crimes including murder,
15 conspiracy to murder, sales of narcotics, money laundering.

16 And, also, that in order to promote the activities
17 of the enterprise, the members of the enterprise would
18 intimidate others through threats of violence and through
19 violence to prevent others from cooperating with law
20 enforcement.

21 So, the government would have to prove, first of
22 all, that such an enterprise existed. They'd also have to
23 prove that you were one of the people who was part of this
24 enterprise. You were one of the group of people who got
25 together and committed these kinds of acts or at least some

1 of those kinds of acts.

2 They'd have to prove that this enterprise and your
3 participation in it was ongoing in the period of time
4 between May of 2001 and November of 2001.

5 And they'd have to prove that you committed at
6 least two acts, racketeering acts, that is two crimes, of
7 the kinds specified by the law as the types of crimes that
8 are covered by the racketeering law.

9 They'd have to prove that the two crimes that you
10 committed in connection with that were, first, the murder of
11 Eric Smith, also known as E. Moneybags, on July 16th of 2001.

12 And they'd have to prove also a second act that
13 you conspired to murder Troy Singleton (ph). And that
14 means -- and I'll explain conspiracy in a second -- that you
15 conspired to murder Troy Singleton during the period -- and
16 the conspiracy was ongoing in the period of time roughly
17 between July 1, 2001 and October 28, 2001.

18 Conspiracy means that you and at least one other
19 person agreed to work together to cause the death of Troy
20 Singleton. That is that you both understood that you would
21 work together to accomplish that criminal purpose.

22 So, in order to prove this offense at trial, just
23 to summarize, if there was a trial, the government would
24 have to prove there was an enterprise, a group of people who
25 worked together through criminal conduct to make money.

1 They'd have to prove that you were one of the
2 people who was part of this enterprise. And they'd have to
3 prove that you committed the two crimes I just mentioned
4 while you were participating in the enterprise and for the
5 purposes of advancing the goals of the enterprise.

6 Do you understand what I've explained to you about
7 this?

8 THE DEFENDANT: Yes, Sir.

9 THE COURT: This crime is a felony because it's
10 punishable by imprisonment for more than a year. Because
11 it's a felony, you have the right to have this charge
12 brought against you by means of a document called an
13 indictment.

14 Right now the charge is brought against you by
15 means of a superseding information. And an information is
16 different from an indictment in this respect. An
17 information has never been reviewed by anybody other than
18 the prosecutor to see if the charges should go forward.

19 An indictment is a document that has, in fact,
20 been reviewed by a different group of people called a grand
21 jury.

22 A grand jury is a group of between sixteen and
23 twenty-three people, ordinary citizens. Their task is to
24 listen to evidence presented by the prosecutor and make a
25 determination as to whether the evidence is sufficient to

1 establish probable cause the prosecutor wants to charge with
2 a crime actually committed the crime.

3 Now, you have the right to have this charge
4 brought against you by means of an indictment. By means of
5 a document that's been reviewed by the grand jury.

6 You can waive that right. But if you don't waive
7 the right, then the only way the government could continue
8 with this charge is to present evidence to the grand jury
9 and then have the grand jury vote on the indictment.

10 At least twelve of the members of the grand jury
11 would have to vote in favor of the indictment. And if
12 twelve members, twelve or more, did not vote in favor, then
13 the charge couldn't proceed.

14 Do you understand what I've explained about your
15 right to indictment?

16 THE DEFENDANT: Yes.

17 THE COURT: Have you discussed the concept of
18 waiving your right to indictment with your attorney?

19 THE DEFENDANT: Yes.

20 THE COURT: Do you wish to waive your right to
21 indictment?

22 THE DEFENDANT: Yes.

23 THE COURT: Has anybody threatened you or made any
24 promises to you to induce you to waive your right to
25 indictment?

1 THE DEFENDANT: No, Sir.

2 THE COURT: I have a document, it's entitled
3 "Waiver of Right to Indictment". It appears to be signed by
4 you. Let me ask you, please, to look at this document.

5 Is that your signature at the bottom of the page
6 there?

7 THE DEFENDANT: Yes, Sir.

8 THE COURT: Alright. I find then that Mr. Allen
9 understands his right to indictment. That he has knowingly
10 and voluntarily waived that right. And so we will proceed
11 with this matter on the basis of the superseding
12 information.

13 The first and perhaps most important thing you
14 should understand, Mr. Allen, is that you have the right to
15 plead not guilty to the charge in this information even if
16 you're guilty.

17 Do you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: If you maintain a plea or if you enter
20 a plea of not guilty to the charge, you have the right to a
21 speedy and public trial before a jury with the assistance of
22 your attorney on this charge.

23 Do you understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: At a trial, you would be presumed to

1 be innocent. You would not have to prove that you were
2 innocent. You would not have to prove anything.

3 The prosecution has the burden of proof at a
4 criminal trial. And the prosecution's burden is to produce
5 evidence in court that is admissible and that satisfies a
6 jury unanimously that the defendant is guilty beyond a
7 reasonable doubt.

8 If the government could not meet that burden of
9 proof at your trial, then the jury would have the duty to
10 find you not guilty even if you were guilty.

11 Do you understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: At a trial, witnesses for the
14 government would have to come to court and testify in your
15 presence. Your attorney could cross-examine the witnesses.
16 He could object to the evidence the government tried to
17 introduce. He could offer evidence in your behalf. He
18 could require witnesses to come to court and testify in your
19 behalf if there were witnesses who had information that
20 might be useful to your defense.

21 Do you understand that?

22 THE DEFENDANT: Yes.

23 THE COURT: At the trial, you would have the right
24 to testify in your own behalf if you chose to testify. You
25 could not, however, be required to testify. The choice

1 would be entirely up to you.

2 And this is because the Constitution of the United
3 States guarantees that no defendant in a criminal case can
4 be required to take the witness stand and say something that
5 might be used to show that he's guilty.

6 If you chose to have a trial but chose not to
7 testify at the trial, the Court would instruct the jury that
8 they could not hold that against you.

9 Do you understand that?

10 THE DEFENDANT: Yes.

11 THE COURT: If, instead of going to trial, you
12 plead guilty and if your guilty plea is accepted, you will
13 be giving up your constitutional right to a trial and all
14 the other rights I've just discussed.

15 There will be no trial in this case. You'll have
16 no right to appeal to a higher Court on the question of
17 whether or not you're guilty.

18 Judge Block will enter a judgement of guilty and
19 impose a sentence on you based solely on your plea of guilty
20 and without any trial whatsoever.

21 Do you understand that?

22 THE DEFENDANT: Yes.

23 THE COURT: If you plead guilty, I will have to
24 ask you some questions about what you did in order to
25 satisfy myself that you are guilty.

1 In doing that, you will be -- In answering the
2 questions, you will be giving up your right, the right I
3 mentioned a few moments ago, not to say something that can
4 be used to show that you're guilty.

5 Do you understand that?

6 THE DEFENDANT: Yes.

7 THE COURT: Mr. Allen, are you willing to give up
8 your right to a trial and the other rights I've just
9 discussed with you?

10 THE DEFENDANT: Yes, Sir.

11 THE COURT: This is Judge Block's case. And that
12 means Judge Block is the judge who will sentence you if you
13 plead guilty. Judge Block is also the judge who will make
14 the final decision about whether to accept your guilty plea.

15 If you wish, you have the absolute right to have
16 Judge Block listen to the guilty plea. And if you chose to
17 have him listen to the plea instead of me, you could suffer
18 no harm or prejudice of any kind because you made that
19 decision.

20 Do you understand me so far?

21 THE DEFENDANT: Yes.

22 THE COURT: You can waive your right to have Judge
23 Block listen to your guilty plea and permit me to listen to
24 your plea if you wish.

25 A recording is now being made of this proceeding.

1 A written transcript of this proceeding will be prepared for
2 Judge Block to review so that he can make the final
3 determination about whether to accept your plea. And he may
4 also review that in connection with sentencing.

5 I have a document here that appears to be signed
6 by you which indicates you are willing to permit me to
7 listen to your plea. And in doing that, of course, you'll
8 be giving up your right to have Judge Block listen to the
9 plea.

10 Let me ask you to review this document if you
11 would. Is that your signature on this document?

12 THE DEFENDANT: Yes, Sir.

13 THE COURT: Do you, in fact, wish to give up your
14 right to have Judge Block listen to the plea and permit me
15 to listen to the plea?

16 THE DEFENDANT: Yes, Sir.

17 THE COURT: Do you make that decision voluntarily
18 and of your own free will?

19 THE DEFENDANT: Yes, Sir.

20 THE COURT: Has anybody threatened you or made any
21 promise to you to induce you to allow me to listen to the
22 plea?

23 THE DEFENDANT: No, Sir.

24 THE COURT: Alright. I understand you do have an
25 agreement with the government concerning your plea. And I

1 have a document here that appears to be the agreement. It
2 bears today's date on the last page. And it has various
3 signatures on the last page including one that also appears
4 to be yours.

5 Let me ask you if you would to examine the
6 document. And is that your signature on the last page, Mr.
7 Allen?

8 THE DEFENDANT: Yes, Sir.

9 THE COURT: Before you signed the document, did
10 you read the entire document?

11 THE DEFENDANT: Yes, Sir.

12 THE COURT: Did you discuss the various terms of
13 this agreement with your attorney?

14 THE DEFENDANT: Yes, Sir.

15 THE COURT: Do you understand literally
16 everything, absolutely everything, in this document?

17 THE DEFENDANT: Yes, Sir.

18 THE COURT: Except for any promises in writing in
19 this document, did anyone make any promise to you to induce
20 you to plead guilty?

21 THE DEFENDANT: No, Sir.

22 THE COURT: Alright. I'll mark this as Exhibit 1
23 for purposes of the proceeding today. I'd like to review
24 with you now the potential punishment for this offense.

25 First of all, the statute under which you are

1 charged permits the Court to impose a term of imprisonment
2 of up to life in prison for this offense.

3 Do you understand that?

4 THE DEFENDANT: Yes, Sir.

5 THE COURT: The statute does not prescribe a
6 minimum term of imprisonment. The statute also permits the
7 Court to impose a term of supervised release. The term of
8 supervised release would commence after you completed any
9 term of imprisonment that's imposed.

10 The term of supervised release could last up to
11 five years. While you're serving a term of supervised
12 release, you'll be required to comply with conditions set by
13 the Court.

14 If you fail to comply with any of the conditions,
15 the Court has the option to sentence you to serve further
16 time in prison.

17 And on each occasion, when the Court finds that
18 you have violated one or more of those conditions of
19 supervised release, the Court may impose an additional term
20 of imprisonment of up to five years without giving you any
21 credit for any time you have spent in prison previously,
22 with respect to this charge, either on your original
23 sentence or if there are multiple times when you've violated
24 conditions of release, even if you previously were sentenced
25 to serve additional time because of a violation.

1 The Court on the subsequent occasion can impose up
2 to five years without giving you any credit for the previous
3 times.

4 Do you understand that?

5 THE DEFENDANT: Yes, Sir.

6 THE COURT: You also may be fined up to \$250,000
7 or twice the gross gain or loss from the criminal
8 activities. Is there any computation as to gain or loss at
9 this point, Ms. Pokorny?

10 MS. POKORNY: The gain, I suppose, would be what
11 he was paid. And we're talking about under \$15,000.

12 THE COURT: Alright, so that they --

13 MR. DONALDSON: Under \$15,000.

14 THE COURT: So, the effective maximum would be the
15 \$250,000 for the fine.

16 MS. POKORNY: Yes.

17 THE COURT: Alright, so the effective maximum is
18 \$250,000. Is there a restitution amount, Ms. Pokorny?

19 MS. POKORNY: There may be restitution
20 particularly because there's a murder victim. And so
21 sometimes the families can put in for things like funeral
22 expenses. We don't have an amount at this time.

23 THE COURT: Okay. So, you could be fined up to
24 \$250,000. The Court may also enter an order of restitution
25 to reimburse any victims of your offenses to the extent that

1 they suffered monetary financial loss because of the
2 offenses.

3 Do you understand that?

4 THE DEFENDANT: Yes, Sir.

5 THE COURT: And, finally, the Court will be
6 required to impose a special assessment of \$100 with respect
7 to this offense.

8 Do you understand that?

9 THE DEFENDANT: Yes, Sir.

10 THE COURT: Mr. Donaldson, did you discuss with
11 Mr. Allen the operation of the sentencing guidelines?

12 MR. DONALDSON: Yes.

13 THE COURT: Alright. Mr. Allen, in sentencing
14 you, the Court will have to consider some guidelines that
15 may affect the judge's determination with respect to the
16 sentence to impose.

17 Your attorney tells me he's talked about the
18 guidelines with you. Do you recall discussing the subject
19 with him?

20 THE DEFENDANT: Yes.

21 THE COURT: Alright. I'll go over it just briefly
22 then. Before sentencing you, Judge Block will receive
23 information about you and about the crime that's charged
24 here. He'll have to consider various factors about those
25 matters and then make a determination about the guideline

1 level that applies to your case.

2 The guideline level that's determined in that
3 fashion will prescribe a range of imprisonment that's the
4 appropriate imprisonment -- or that's the recommended
5 imprisonment, I should say, for a case.

6 The judge is not required to sentence you within
7 the range of imprisonment that's recommended by the
8 guidelines, however. The judge could decide to impose a
9 sentence that's above what the guidelines recommend. Or he
10 could decide to impose a term of imprisonment below what the
11 guidelines recommend.

12 But, at a minimum, Judge Block will have to make a
13 determination about what the proper guideline level is for
14 your case. And then he'll have to consider very carefully
15 whether to sentence you in accordance with the guidelines or
16 outside of the guidelines.

17 If he decides to sentence you outside of what the
18 guidelines recommend, then he'll have to give good reasons
19 for the departure that he decides on.

20 Do you understand that?

21 THE DEFENDANT: Yes, Sir.

22 THE COURT: What is the government's calculation.
23 I'm going to ask the lawyer's to tell me what they think the
24 calculation of the guidelines. That is what the guidelines
25 are likely to say.

1 MS. POKORNY: Yes, your Honor. Here the parties
2 are in agreement as set forth in paragraph two that the
3 guidelines call for life.

4 THE COURT: Okay, so the applicable guideline
5 level is a life guideline.

6 MS. POKORNY: That's right.

7 THE COURT: And I also see that the defendant
8 agrees not to challenge that guideline calculation. So, by
9 virtue of your agreement, Mr. Allen, you have agreed that
10 that is the proper calculation of the guidelines.

11 Is there any other agreement with respect to the
12 position that the defendant may take with respect to
13 sentence, however, Ms. Pokorny?

14 MS. POKORNY: No. The defendant as in this
15 agreement as all our agreements -- most, I should say,
16 leaves open the possibility for the defendant to seek a
17 lower sentence.

18 THE COURT: Okay. So, the defendant is free to
19 make the argument to Judge Block that he can depart from the
20 guidelines.

21 MS. POKORNY: He's free to make that argument.

22 THE COURT: Alright. Alright, I do want to
23 emphasize that Judge Block will have to make his own
24 independent determination about the guidelines. And then,
25 beyond that, he has to make his own determination about what

1 the proper sentence should be.

2 No one can tell you now how he will decide any
3 matters relating to sentence. You won't know what those
4 decisions will be until the actual time of sentence.

5 Do you understand that?

6 THE DEFENDANT: Yes, Sir.

7 THE COURT: After sentence is imposed -- Well, let
8 me see. There's not much left to appeal with respect to
9 sentence as I read this plea agreement, Ms. Pokorny.

10 MS. POKORNY: No, the defendant has waived his
11 right to appeal.

12 THE COURT: Essentially that's right. So, if you
13 didn't have a plea agreement, Mr. Allen, you would have the
14 right to appeal your sentence to a higher Court even if you
15 plead guilty.

16 But by virtue of paragraph four of your plea
17 agreement, you've agreed that you will not file an appeal of
18 your sentence.

19 Do you understand that?

20 THE DEFENDANT: Yes, Sir.

21 THE COURT: Alright. Do you have any questions
22 you'd like to ask me? Do you have any questions about the
23 charge or your rights or about anything else related to this
24 matter which may not be clear?

25 THE DEFENDANT: No, Sir.

1 THE COURT: Mr. Donaldson, is there anything else
2 I should review with your client before proceeding to the
3 allocution?

4 MR. DONALDSON: No, your Honor.

5 THE COURT: Ms. Pokorny, is there anything further
6 I should review?

7 MS. POKORNY: No, your Honor.

8 THE COURT: Mr. Donaldson, do you know of any
9 reason why Mr. Allen should not enter a plea of guilty to
10 this charge?

11 MR. DONALDSON: I do not.

12 THE COURT: Are you aware of any viable legal, as
13 opposed to factual, defense to the charge?

14 MR. DONALDSON: I do not.

15 THE COURT: Mr. Allen, are you ready to plead?

16 THE DEFENDANT: Yes, Sir.

17 THE COURT: How do you plead to the charge
18 contained in the superseding information, guilty or not
19 guilty?

20 THE DEFENDANT: Guilty, Sir.

21 THE COURT: Are you making this plea of guilty
22 voluntarily and of your own free will?

23 THE DEFENDANT: Yes, Sir.

24 THE COURT: Has anybody threatened you or forced
25 you to plead guilty?

1 THE DEFENDANT: No, Sir.

2 THE COURT: Other than your agreement with the
3 government, has anyone made any promise to you that caused
4 you to plead guilty?

5 THE DEFENDANT: No, Sir.

6 THE COURT: Did anyone make any promise to you or
7 give you any assurances as to what your sentence will be?

8 THE DEFENDANT: No, Sir.

9 THE COURT: Alright, no one could do that because
10 Judge Block and Judge Block alone will have to make the
11 decision about your sentence. And he won't make that
12 decision until the actual time of sentence. So, I presume
13 that's clear?

14 Is that clear, Sir?

15 THE DEFENDANT: Yes, Sir.

16 THE COURT: Can you tell me briefly in your own
17 words what you did in connection with this offense that
18 makes you guilty of the offense?

19 THE DEFENDANT: I, Russell Allen, as part of the
20 McGriff criminal enterprise in 2001 by Queens and elsewhere
21 agreed with others to kill Eric Smith and Troy Singleton on
22 July 16th by firing the weapon at or near Eric Smith.

23 Regarding Troy Singleton, I did agree to kill him
24 and did participate in trying to locate him for the purpose
25 of killing him.

1 THE COURT: So, as I understand it, you were part
2 of a group of people who worked together to earn money
3 through criminal activities.

4 THE DEFENDANT: Yes, Sir.

5 THE COURT: Alright. And in connection with your
6 association with that group of people, you participated and
7 agreed with others to participate in the murders of both
8 Eric Smith, also known as E. Moneybags and Troy Singleton.

9 THE DEFENDANT: Yes, Sir.

10 THE COURT: And am I correct that your decision to
11 do that was for the purpose of furthering the purposes of
12 the enterprise that you described a moment ago?

13 THE DEFENDANT: Yes, Sir.

14 THE COURT: With respect to the murder of Mr.
15 Smith, what role did you play in connection with that?

16 THE DEFENDANT: I was shooting, shooting at him.

17 THE COURT: Alright, you actually pulled the
18 trigger on the weapon?

19 THE DEFENDANT: Yes.

20 THE COURT: And I think you said with respect to
21 Mr. Singleton you participated in efforts to locate him for
22 the purpose of the murder?

23 THE DEFENDANT: Yes, Sir.

24 THE COURT: And you knew that that was the purpose
25 for which you were seeking to locate him?

1 THE DEFENDANT: Yes, Sir.

2 THE COURT: Is there anything further about which
3 I should inquire, Ms. Pokorny?

4 MS. POKORNY: I would like to add that the
5 government would be prepared to prove the existence of the
6 McGriff Enterprise. And that we would do that through
7 cooperator testimony, through the seizure of drugs and
8 significant quantities of money and text messages.

9 And we would also be prepared to prove that the
10 McGriff Enterprise affected interstate commerce by engaging
11 in drug trafficking in multiple states including New York,
12 Maryland and elsewhere.

13 THE COURT: So, am I correct in understanding that
14 you had through testimony and corroborated by other physical
15 evidence that people associated with the same group of
16 people that Mr. Allen was part of engaged in money
17 laundering and narcotics activity?

18 MS. POKORNY: Exactly. Other than that --

19 THE COURT: And that the activity affected
20 interstate commerce in that at least some of the activity
21 crossed state lines?

22 MS. POKORNY: That's correct.

23 THE COURT: Alright. Is there anything further
24 about which I should inquire?

25 MS. POKORNY: No, your Honor.

1 THE COURT: Mr. Donaldson?

2 MR. DONALDSON: No, your Honor.

3 THE COURT: Alright, based on the information
4 that's been provided today, I do find that Mr. Allen
5 understands the charge. He fully understands his rights and
6 the consequences of his plea.

7 I find also that there's a factual basis for the
8 plea. And, therefore, I recommend that Judge Block accept
9 Mr. Allen's plea of guilty to the superseding information.

10 Has Judge Block set a date for sentencing, Mr.
11 Toritto?

12 THE CLERK: No, your Honor. It will set from the
13 Probation Department.

14 THE COURT: Alright, so there's not now a date set
15 for your sentence, Mr. Allen. That date will be set once
16 the Probation Department of the Court completes a
17 presentence report.

18 In order to prepare the presentence report a
19 probation officer will interview you. You have the right to
20 have your attorney present during the interview.

21 You have the right to see the report that's
22 prepared as well. And you'll have the right to bring to the
23 Court's attention any errors or any matters that are not
24 properly covered by the report.

25 You should bear in mind during the interview

1 process that the interview is the principal way that the
2 Court finds out about a defendant's background and personal
3 circumstances so that those matters can be brought to the
4 attention of the Court.

5 So, it is sometimes in the interest of the
6 defendant to cooperate with the probation officer during the
7 interview. You should, of course, listen to your attorney's
8 advise with respect to that.

9 Is there any other matter to address today before
10 we adjourn, Counsel?

11 MS. POKORNY: No, your Honor.

12 THE COURT: Mr. Donaldson?

13 MR. DONALDSON: No, your Honor.

14 THE COURT: Alright.

15 ALL: Thank you very much.

16 (Pause in proceedings)

17 THE COURT: Alright, we are adjourned. I will
18 return to counsel for the government the plea agreement
19 which was marked as Exhibit 1 to be maintained for further
20 proceedings that may be necessary. And we're adjourned.

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I certify that the foregoing is a correct transcript
from the electronic sound recording of the proceedings in
the above-entitled matter.

A handwritten signature in black ink, appearing to read 'EB', with a long horizontal stroke extending to the right.

ELIZABETH BARRON

July 22, 2008